

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION


A motion to dismiss Plaintiff's First Amended Complaint has been pending in this action since September 9, 2011. *See* ECF No. 15. The Court granted the parties' joint stipulation to continue the initial case management conference and hearing on Defendant's motion to dismiss on September 23, 2011, based on the parties' represented expectation of a global settlement that would result in resolution of the matter and dismissal of the action in its entirety. *See* ECF No. 21. This case was reassigned to the undersigned judge on December 19, 2011. *See* ECF No. 33. On March

1 8, 2012, the Court again granted the parties' stipulated request to continue the hearing on
2 Defendant's motion to dismiss and the case management conference, both set for March 15, 2012,
3 to June 28, 2012, based on the parties' representation that they expected to be able to settle this
4 case in its entirety within 60 days from the date of their stipulation. *See* ECF No. 36 (Stipulation);
5 ECF No. 38 (Order). On June 11, 2012, the Court ordered the parties to file either a stipulation of
6 dismissal or a status report by June 15, 2012. *See* ECF No. 39. On June 13, 2012, the parties filed
7 a joint status report indicating that "[t]he parties have made progress in resolving several of the
8 claims in this lawsuit," but advising the Court that full resolution of the case will require another
9 eight to ten weeks. ECF No. 40. On that basis, the parties request yet another continuation of the
10 June 28, 2012 case management conference and hearing on Defendant's motion to dismiss. *Id.* at
11 3.

12 This lawsuit has been docketed for nearly one year (since July 12, 2011), and Defendant's
13 motion to dismiss has been pending for nine months, as a result of the parties' repeated requests for
14 continuances. The Court will not grant further continuances. The Court strongly recommends that
15 the parties stipulate to a dismissal without prejudice and a tolling agreement. The parties may
16 stipulate to a dismissal with prejudice in ten weeks. If the parties do not stipulate to a dismissal
17 without prejudice by June 19, 2012, then the case management conference and hearing on
18 Defendant's motion to dismiss will proceed on June 28, 2012, at 1:30 p.m.

19 **IT IS SO ORDERED.**

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21 Dated: June 14, 2012

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23 LUCY H. KOH
24 United States District Judge
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